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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,664	05/03/2001	Shelly E. Sakiyama-Elbert	ETH 108 CON	2552

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EXAMINER

BRANNOCK, MICHAEL T

ART UNIT

PAPER NUMBER

1646

DATE MAILED: 10/18/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

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09848664			ATTORNEY DOCKET NO.

EXAMINER	
Michael Brannock	
ART UNIT	PAPER NUMBER
1646	7

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application

Commissioner of Patents

The preliminary amendment filed with this Application is improper and internally inconsistent. The amendment is improper because the marked-up version of the claims is presented as the amendment. The amendments should be presented as a set of replacement claims followed by a marked-up version of the claims as amended. *See Changes to Implement the Patent Business Goals*, 65 Fed. Reg. 54603, 54637-40, 54672-73 (Sept. 8, 2000). This new amendment practice became mandatory for all amendments on March 1, 2001. *See Changes to Implement the Patent Business Goals*, 65 Fed. Reg. at 54637. The new amendment practice provides for amendment to the written description of the specification by way of a clean replacement paragraph or section and for amendment to the claims by way of clean replacement claims. *See* 37 CFR 1.121(b)(1)(i) and (ii), 1.121(b)(2)(i) and (ii), and 1.121(c)(1)(i) (2001). The new amendment practice also requires a marked up version of the replacement paragraph, section or claim showing the changes vis-a-vis the prior paragraph, section or claim (respectively). *See* 37 CFR 1.121(b)(1)(iii), 1.121(b)(2)(iii), and 1.121(c)(1)(ii) (2001).

The amendment is internally inconsistent because the marked-up version requires cancellation of claims 2, 8-19, 29-56, 60, yet the "clean" version requires cancellation of only claim 2. In order to avoid confusion, no amendments have been entered.


Applicant is given THIRTY DAYS from the mailing date of this letter within which to comply. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). In no case may an applicant extend the period for reply beyond the SIX MONTH statutory period.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael T. Brannock, Ph.D., whose telephone number is (703) 306-5876. The examiner can normally be reached on Mondays through Thursdays from 8:00 a.m. to 5:00 p.m. The examiner can also normally be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, Ph.D., can be reached at (703) 308-6564

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Michael T. Brannock
October 2, 2002



YVONNE EYLER, PH.D.
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